

§ 226.57

12 CFR Ch. II (1–14 Edition)

soon as reasonably practicable after the card issuer receives it.

(j) *Prohibited practices.* Notwithstanding a consumer's affirmative consent to a card issuer's payment of over-the-limit transactions, a card issuer is prohibited from engaging in the following practices:

(1) *Fees or charges imposed per cycle.* (i) *General rule.* A card issuer may not impose more than one over-the-limit fee or charge on a consumer's credit card account per billing cycle, and, in any event, only if the credit limit was exceeded during the billing cycle. In addition, except as provided in paragraph (j)(1)(ii) of this section, a card issuer may not impose an over-the-limit fee or charge on the consumer's credit card account for more than three billing cycles for the same over-the-limit transaction where the consumer has not reduced the account balance below the credit limit by the payment due date for either of the last two billing cycles.

(ii) *Exception.* The prohibition in paragraph (j)(1)(i) of this section on imposing an over-the-limit fee or charge in more than three billing cycles for the same over-the-limit transaction(s) does not apply if another over-the-limit transaction occurs during either of the last two billing cycles.

(2) *Failure to promptly replenish.* A card issuer may not impose an over-the-limit fee or charge solely because of the card issuer's failure to promptly replenish the consumer's available credit following the crediting of the consumer's payment under § 226.10.

(3) *Conditioning.* A card issuer may not condition the amount of a consumer's credit limit on the consumer affirmatively consenting to the card issuer's payment of over-the-limit transactions if the card issuer assesses a fee or charge for such service.

(4) *Over-the-limit fees attributed to fees or interest.* A card issuer may not impose an over-the-limit fee or charge for a billing cycle if a consumer exceeds a credit limit solely because of fees or interest charged by the card issuer to the consumer's account during that billing cycle. For purposes of this paragraph (j)(4), the relevant fees or interest charges are charges imposed as part of the plan under § 226.6(b)(3).

§ 226.57 Reporting and marketing rules for college student open-end credit.

(a) Definitions:

(1) *College student credit card.* The term "college student credit card" as used in this section means a credit card issued under a credit card account under an open-end (not home-secured) consumer credit plan to any college student.

(2) *College student.* The term "college student" as used in this section means a consumer who is a full-time or part-time student of an institution of higher education.

(3) *Institution of higher education.* The term "institution of higher education" as used in this section has the same meaning as in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

(4) *Affiliated organization.* The term "affiliated organization" as used in this section means an alumni organization or foundation affiliated with or related to an institution of higher education.

(5) *College credit card agreement.* The term "college credit card agreement" as used in this section means any business, marketing or promotional agreement between a card issuer and an institution of higher education or an affiliated organization in connection with which college student credit cards are issued to college students currently enrolled at that institution.

(b) *Public disclosure of agreements.* An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

(c) *Prohibited inducements.* No card issuer or creditor may offer a college student any tangible item to induce such student to apply for or open an open-end consumer credit plan offered by such card issuer or creditor, if such offer is made:

(1) On the campus of an institution of higher education;

(2) Near the campus of an institution of higher education; or

(3) At an event sponsored by or related to an institution of higher education.

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(d) *Annual report to the Board.* (1) *Requirement to report.* Any card issuer that was a party to one or more college credit card agreements in effect at any time during a calendar year must submit to the Board an annual report regarding those agreements in the form and manner prescribed by the Board.

(2) *Contents of report.* The annual report to the Board must include the following:

(i) Identifying information about the card issuer and the agreements submitted, including the issuer's name, address, and identifying number (such as an RSSD ID number or tax identification number);

(ii) A copy of any college credit card agreement to which the card issuer was a party that was in effect at any time during the period covered by the report;

(iii) A copy of any memorandum of understanding in effect at any time during the period covered by the report between the card issuer and an institution of higher education or affiliated organization that directly or indirectly relates to the college credit card agreement or that controls or directs any obligations or distribution of benefits between any such entities;

(iv) The total dollar amount of any payments pursuant to a college credit card agreement from the card issuer to an institution of higher education or affiliated organization during the period covered by the report, and the method or formula used to determine such amounts;

(v) The total number of credit card accounts opened pursuant to any college credit card agreement during the period covered by the report; and

(vi) The total number of credit card accounts opened pursuant to any such agreement that were open at the end of the period covered by the report.

(3) *Timing of reports.* Except for the initial report described in this § 226.57(d)(3), a card issuer must submit its annual report for each calendar year to the Board by the first business day on or after March 31 of the following calendar year. Card issuers must submit the first report following the effective date of this section, providing information for the 2009 cal-

endar year, to the Board by February 22, 2010.

§ 226.58 Internet posting of credit card agreements.

(a) *Applicability.* The requirements of this section apply to any card issuer that issues credit cards under a credit card account under an open-end (not home-secured) consumer credit plan.

(b) *Definitions.* (1) *Agreement.* For purposes of this section, "agreement" or "credit card agreement" means the written document or documents evidencing the terms of the legal obligation, or the prospective legal obligation, between a card issuer and a consumer for a credit card account under an open-end (not home-secured) consumer credit plan. "Agreement" or "credit card agreement" also includes the pricing information, as defined in § 226.58(b)(7).

(2) *Amends.* For purposes of this section, an issuer "amends" an agreement if it makes a substantive change (an "amendment") to the agreement. A change is substantive if it alters the rights or obligations of the card issuer or the consumer under the agreement. Any change in the pricing information, as defined in § 226.58(b)(7), is deemed to be substantive.

(3) *Business day.* For purposes of this section, "business day" means a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions.

(4) *Card issuer.* For purposes of this section, "card issuer" or "issuer" means the entity to which a consumer is legally obligated, or would be legally obligated, under the terms of a credit card agreement.

(5) *Offers.* For purposes of this section, an issuer "offers" or "offers to the public" an agreement if the issuer is soliciting or accepting applications for accounts that would be subject to that agreement.

(6) *Open account.* For purposes of this section, an account is an "open account" or "open credit card account" if it is a credit card account under an open-end (not home-secured) consumer credit plan and either:

(i) The cardholder can obtain extensions of credit on the account; or